

Assembly Bill No. 656

CHAPTER 719

An act to amend Sections 1337.3 and 1337.6 of, and to add Section 1338.2 to, the Health and Safety Code, relating to care facilities.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 656, Scott. Nurse assistants: training programs.

Existing law requires skilled nursing or intermediate care facilities to adopt a training program for nurse assistants that meets standards established by the State Department of Health Services. Under existing law, applicants for certification as a certified nurse assistant are required to meet certain qualifications, including completion of an approved training program.

This bill would require the department to convene a work group of specified composition to develop recommendations on ways to expand the availability of both training programs and nurse assistants available for hire in the state. This bill would require those recommendations to be submitted to the department by July 1, 2001.

Existing law sets forth requirements for renewal of certificates issued to certified nurse assistants. Under existing law, a certificate that is not renewed within 4 years after its expiration may not be renewed except upon completion of a certification program unless certain conditions are met.

This bill would reduce that time period to 2 years and revise the conditions for renewal of certificates.

Existing law requires the department to maintain a list of approved training programs for nurse assistant certification, and to include certain information on the list. Existing law also requires the department to inspect a representative sample of the training programs.

This bill would add to the information that is required to be included on the list of programs, and would require the department to examine the passage rate for trainees from each program, and to require each program to maintain an average 60% test score passage rate, calculated over a 2-year period.

Existing law specifies the content of approved training programs.

This bill would revise the content and required hours for those programs. This bill would further require the Chancellor of the California Community Colleges to provide the department with a process for approval of college credit, and would require the department to make that information available to training programs.

This bill would incorporate additional changes in Section 1337.3 of the Health and Safety Code, proposed by AB 1160, to become operative only if AB 1160 and this bill are both chaptered and become effective January 1, 2000, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Patient needs in long-term health care facilities have changed dramatically in the last ten years with many patients requiring more intensive medical care for shorter periods of time.

(b) The nurse assistant training program has not been reviewed or revised for more than ten years to address the changing needs of patient care in today's long-term health care facilities.

(c) There is currently a shortage of 10,000 certified nurse assistants available for hire and an inadequate number of active training centers in the state to respond to this need, especially in rural areas.

SEC. 2. It is the intent of the Legislature that training center requirements be revised to provide greater consistency among training programs and greater access for individuals to receive college credits. It is the further intent of the Legislature that the State Department of Health Services convene a work group to provide recommendations to the department on addressing the availability of qualified certified nurse assistants for hire in the state.

SEC. 3. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. The state department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the state department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate

shall be calculated over a two-year period. If the state department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The state department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or medicaid programs.

(2) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting, as well as at least 100 hours supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.



(f) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(g) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 3.5. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. The state department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the state department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the state department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The state department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or medicaid programs.



(2) (A) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the certification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse. The 100 hours shall consist of at least four hours of supervised training to address the special needs of persons with developmental and mental disorders, including mental retardation, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989. This subdivision shall become inoperative on January 1, 2005.

(e) (1) On or before January 1, 2003, the state department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(A) Develop a standardized curriculum for approved training programs for certified nurse assistants and criteria for approving training programs, that includes program content for orientation, training, in-service programs, and the examination for testing knowledge and skills related to basic patient care services.

(B) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services and that shall be consistent with the standardized curriculum developed pursuant to subparagraph (A).

(C) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job postcertification hours to educational credits.

(2) On or before January 1, 2004, the group established for purposes of paragraph (1) shall recommend, and the department shall adopt, regulation changes necessary to provide for the certification training programs.

(f) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 4. Section 1337.6 of the Health and Safety Code is amended to read:

1337.6. (a) Certificates issued under this article shall be renewed every two years and renewal shall be conditional upon the occurrence of all of the following:

(1) The certificate holder submitting documentation of completion of 48 hours of in-service training every two years obtained through an approved training program or taught by a director of staff development for a licensed skilled nursing or intermediate care facility that has been approved by the state department, or by individuals or programs approved by the state department. At least 12 of the 48 hours of in-service training shall be completed in each of the two years.

(2) The certificate holder obtaining a criminal record clearance.

(b) Certificates issued under this article shall expire on the certificate holder's birthday. If the certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article.

(c) To renew an unexpired certificate, the certificate holder shall, on or before the certificate expiration date, apply for renewal on a form provided by the state department, pay the renewal fee prescribed by this article, and submit documentation of the required in-service training.

(d) The state department shall give written notice to a certificate holder 90 days in advance of the renewal date and, 90 days in advance of the expiration of the fourth year that a renewal fee has not been paid, and shall give written notice informing the certificate holder,

in general terms, of the provisions of this article. Nonreceipt of the renewal notice does not relieve the certificate holder of the obligation to make a timely renewal. Failure to make a timely renewal shall result in expiration of the certificate.

(e) Except as otherwise provided in this article, an expired certificate may be renewed at any time within two years after its expiration on the filing of an application for renewal on a form prescribed by the state department, and payment of the renewal fee in effect on the date the application is filed, and documentation of the required in-service education.

Renewal under this article shall be effective on the date on which the application is filed, on the date when the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect until the date provided for in this article, when it shall expire if it is not again renewed.

(f) If a certified nurse assistant applies for renewal more than two years after the expiration, the certified nurse assistant shall complete an approved 75-hour competency evaluation training program and competency evaluation program. If the certified nurse assistant demonstrates in writing to the state department's satisfaction why the certified nurse assistant cannot pay the delinquency fee, then the state department on a case-by-case basis shall consider waiving the delinquency fee. A suspended certificate is subject to expiration and shall be renewed as provided in this article, but this renewal does not entitle the certificate holder, while the certificate remains suspended, and, until it is reinstated, to engage in the certified activity, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(g) A revoked certificate is subject to expiration as provided in this article, but it cannot be renewed. If reinstatement of the certificate is approved by the state department, the certificate holder, as a condition precedent to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the date the application for reinstatement is filed, plus the delinquency fee, if any, accrued at the time of its revocation.

(h) Except as provided in subdivision (i), a certificate that is not renewed within four years after its expiration cannot be renewed, restored, reissued, or reinstated except upon completion of a certification program unless deemed otherwise by the state department if all of the following conditions are met:

(1) No fact, circumstance, or condition exists that, if the certificate was issued, would justify its revocation or suspension.

(2) The person pays the application fee provided for by this article.



(3) The person takes and passes any examination that may be required of an applicant for a new certificate at that time, that shall be given by an approved provider of a certification training program.

(i) A certified nurse assistant whose certificate has expired after two years may have his or her certificate renewed if he or she pays a training application fee, completes 75 hours in an approved competency evaluation training program, passes a competency test, and obtains a criminal background clearance prior to the renewal. The department shall develop a training program for these previously certified individuals.

(j) Certificate holders shall notify the department within 60 days of any change of address. Any notice sent by the department shall be effective if mailed to the current address filed with the department.

(k) Certificate holders that have been certified as both nurse assistants pursuant to this article and home health aides pursuant to Chapter 8 (commencing with Section 1725) of Division 2 shall renew their certificates at the same time on one application.

SEC. 5. Section 1338.2 is added to the Health and Safety Code, to read:

1338.2. (a) The state department shall convene a work group to develop recommendations to the department on ways to expand the availability of training programs and certified nurse assistants available for hire in the state. The work group shall investigate, but not be limited to investigating, all of the following:

(1) Work-based learning programs for students in the regional occupational programs in the state.

(2) Utilization of apprenticeships.

(3) Promotional programs for training centers and certified nurse assistant jobs.

(4) Utilization of expanded data resources.

(b) The recommendations required by subdivision (a) shall be submitted by the work group to the state department on or before July 1, 2001.

(c) The work group shall consist of, but not be limited to, all of the following:

(1) A representative from the State Department of Education.

(2) Nurse-Assistant training center representatives.

(3) A director of staff development for a long-term health care facility.

(4) A publisher of nurse assistant training and competency curricula.

(5) An industry representative.

(6) A currently certified nurse assistant.

(7) A consumer representative.

(8) A labor union representative.

(9) A representative of the American Red Cross.

(10) The Chancellor of the California Community Colleges.

(11) A representative from the Office of Statewide Health Planning and Development.

(12) A registered nurse and a licensed vocational nurse, both of whom are currently providing long-term care nursing services.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 1337.3 of the Health and Safety Code proposed by both this bill and AB 1160. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 1337.3 of the Health and Safety Code, and (3) this bill is enacted after AB 1160, in which case Section 3 of this bill shall not become operative.

